



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

**[EPA-R07-OAR-2011-0995; FRL-9634-8]**

**Approval and Promulgation of Implementation Plans; State of Missouri**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change and correction.

**SUMMARY:** EPA is taking final action on administrative changes to the State Implementation Plan (SIP) and the Operating Permits Program. The first revision is an administrative change that codifies EPA's prior approval of a SIP submission which re-numbers references to the St. Louis City Code local ordinance. The second revision is a correction which reinserts text that was inadvertently removed and re-letters a paragraph which codifies a recent approval of revisions to Missouri's Title V operating permits program related to the Submission of Emission Data, Emission Fees and Process Information.

**DATES:** This action is effective [Insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Amy Bhesania at (913) 551-7147, or by email at [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA.

### **Outline**

I. What is being addressed in this document?

II. What action is EPA taking?

**I. What is being addressed in this document?**

EPA is taking final action on administrative changes to the State Implementation Plan (SIP) and the Operating Permits Program. On April 5, 2011, Missouri submitted a SIP revision requesting to local ordinance numbers in the St. Louis City Code. EPA determined that the revision was a minor SIP revision without any substantive changes and complied with all applicable requirements of the CAA and EPA regulations concerning such SIP revisions. EPA approved this revision through letter notice to Missouri dated November 23, 2011 consistent with the procedures outlined in EPA's Notice of Procedural Changes on SIP processing published on January 19<sup>th</sup>, 1989 at 54 FR 2214 and consistent with the procedures outlined in an April 6, 2011 memo from Janet McCabe, Deputy Assistant Administrator for the Office of Air and Radiation, regarding Regional Consistency for the Administrative Requirements of State Implementation. Today's action merely

codifies the November 23, 2011 administrative amendment to the SIP.

The second revision is a correction which reinserts text that was inadvertently removed and re-letters a paragraph which codifies a recent approval of revisions to Missouri's Title V operating permits program related to the Submission of Emission Data, Emission Fees and Process Information that was finalized in 76 FR 77701, December 14, 2011. In that rule, EPA inadvertently removed the text in 40 CFR Part 70, App. A, from paragraph (v) for Missouri, and replaced it with new text which was the subject of that rule. EPA's intent was to add the new text in a new paragraph rather than to replace existing text. This action reinstates the removed text in paragraph (v) and moves the current text in paragraph (v) to new paragraph (z).

## **II. What action is EPA taking?**

EPA is taking final action on administrative changes to the Missouri SIP and Operating Permits Program. EPA has determined that today's action falls under the "good cause" exemption in the section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). With respect to the SIP revision

described above, today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs. With respect to the revision to the Missouri Title V operating permit program, this action merely corrects an error in the designation of paragraphs reflecting previously approved revisions to the Missouri program. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment for this administrative action is "unnecessary" because the revisions are administrative and non-substantive in nature. Immediate notice of this action in the Federal Register benefits the public by providing the public notice of the updated Missouri SIP and Title V program.

Approval of these revisions will ensure consistency between state and Federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air emissions.

#### **Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided

that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of

Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control,  
Incorporation by reference.

*40 CFR Part 70*

Environmental protection, Air pollution control, Operating  
permits.

Dated: February 9, 2012\_\_\_\_\_

\_\_\_\_\_  
Karl Brooks,  
Regional Administrator,  
Region 7.



Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA - Missouri

2. In § 52.1320 the table in paragraph (c) is amended by revising the title, "St. Louis City Ordinance 65645" to read as follows.

§ 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
St. Louis City Ordinance 68657				
* * * * *				

\* \* \* \* \*

PART 70 - [AMENDED}

3. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Appendix A - [Amended]

4. Appendix A to Part 70, Missouri, is amended by redesignating existing paragraph (v) as new paragraph (z) and by adding a new paragraph (v) to read as follows:

Appendix A to Part 70 - Approval Status of State and Local  
Operating Permits Programs

\* \* \* \* \*

Missouri

\* \* \* \* \*

(v) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.110, "Submission of Emission Data, Emission Fees, and Process Information" on December 21, 2007; approval of section (3)(D) effective November 14, 2008.

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